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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,093	02/02/2004	Daniel J. Miller	MS1-0631USC1	9988
22801 LEE & HAYES	7590 12/10/200 S, PLLC	EXAMINER		
601 W. RIVER	SIDE AVENUE	PATEL, HARESH N		
SUITE 1400 SPOKANE, WA 99201			ART UNIT	PAPER NUMBER
			2454	
			MAIL DATE	DELIVERY MODE
			12/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary		Application No.	Applicant(s)				
		10/770,093	MILLER ET AL.				
		Examiner	Art Unit				
		HARESH N. PATEL	2454				
Period fo	The MAILING DATE of this communication app or Reply	ears on the cover sheet with the c	orrespondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
Status							
1)[\	Responsive to communication(s) filed on <u>26 Se</u>	entember 2008					
-	• • • • • • • • • • • • • • • • • • • •	action is non-final.					
3)	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
٥/١	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
	·	n parte gadyre, 1000 C.B. 11, 10	0.0.210.				
Dispositi	on of Claims						
4)🖂	4)⊠ Claim(s) <u>1-3,5-10,12-17,19 and 20</u> is/are pending in the application.						
	4a) Of the above claim(s) is/are withdrawn from consideration.						
5)🛛	Claim(s) <u>8-10,12-17,19 and 20</u> is/are allowed.						
6)🖂	6)⊠ Claim(s) <u>1-3 and 5-7</u> is/are rejected.						
7)	Claim(s) is/are objected to.						
8)□	Claim(s) are subject to restriction and/or	election requirement.					
Application Papers							
9)	The specification is objected to by the Examine	r.					
	The drawing(s) filed on is/are: a) ☐ acce		Examiner.				
,	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
Priority under 35 U.S.C. § 119							
_	<u>-</u>		(1) (5)				
<ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>							
2)  Notic 3)  Inform	t(s) se of References Cited (PTO-892) se of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO/SB/08) r No(s)/Mail Date 10/24/08.	4)  Interview Summary Paper No(s)/Mail Da 5)  Notice of Informal P 6)  Other:	ite				

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### **DETAILED ACTION**

1. Claims 1-3, 5-10, 12-17, 19-20 are subject to examination. Claims 4, 11 and 18 are cancelled.

## Allowable Subject Matter

- 2. Claims 8-10, 12-17, 19-20 are allowed.
- 3. The indicated allowability of claim 4 in the office action dated 6/26/08 is withdrawn in view of the applicant provided IDS 10/24/08 (after the office action dated 6/26/2008) reference(s) to Parson's et al., 6,310,889. Rejections based on the newly cited reference(s) follow.

# **Specification**

4. The amendments to the disclosure dated 9/26/08 are acknowledged.

## Claim Rejections - 35 USC § 103

- 5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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- 6. Claims 1-3, 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parry et al. 6,535,920 (Hereinafter Parry) in view of Parson's et al., 6,310,889. Note: please refer to the office action dated 6/26/2008 for the rejections. Parson supports the subject matter of claim 4.
- 7. Claims 1-3, 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lortz, 7047554 (Hereinafter Lortz) in view of Parson's et al., 6,310,889. Note: please refer to the office action dated 6/26/2008 for the rejections. Parson supports the subject matter of claim 4.
- 8. Claims 1-3, 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over by DeLeeuw, 6088018 (Hereinafter DeLeeuw) in view of Parson's et al., 6,310,889. Note: please refer to the office action dated 6/26/2008 for the rejections. Parson supports the subject matter of claim 4.

#### Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). Note: the art used under 103(a) is from the IDS dated10/24/08, after the previous non-final office action.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Examiner has cited particular columns and line numbers and/or paragraphs and/or sections and/or page numbers in the reference(s) as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety, as potentially teaching, all or part of the claimed invention, as well as the context of the passage, as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haresh Patel whose telephone number is (571) 272-3973. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached at (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Haresh N. Patel/

Primary Examiner, Art Unit 2454

12/06/08